IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE
WRIT PETITION NO.3529 of 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

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Mr. G.N.Salunke, for the Petitioner
Mrs. J.S.Pawar, AGP for respondent No.1.
Mr. R.G. Ketkar for Respondent No.2.

CORAM : F.I.REBELLO & MRS.R.S.DALVI,JJ.
DATED : NOVEMBER 28,2005
P.C.

. The petitioner was working on daily wager from the year 1978 for various periods during which also there was also interruption. The post of Senior Library Assistant came to be advertised against which the petitioner also applied. The petitioner was not selected, but some other candidate was selected. The petitioner challenged the same by filing a complaint. That complaint came to be rejected. The petitioner thereafter challenged the said order before this Court by way of Writ Petition No.805 of 1990. Though the challenge was to the non-selection this Court considering the the total number of period for which the petitioner had worked held that there was a case for additional post of Senior Library Assistant and accordingly by an order directed the 4th

respondent to create one permanent post of Senior Library Assistant and to appoint the petitioner as Senior Library Assistant on the said post. Pursuant to that order the petitioner has been appointed. The petitioner thereafter has retired. However, the petitioner has been denied pension. It is in these circumstances that the petitioner has approached this Court. 2. It is the case of the petitioner that the petitioner's service from the date she first started working should be considered. For that purpose learned Counsel relied upon Rule 30 of the Maharashtra Civil Services (Pension) Rules 1983. It is contended that what has to be considered is first date of service and if that be so the petitioner has complied with all the requirements. 3. On behalf of the Respondent University learned Counsel points out that the communication dated 12th February, 2003 addressed by the State of Maharashtara in which the petitioner's claim for pension has been rejected. It is also pointed out from the judgment that this Court did not direct that the post be created from a back date and the petitioner be regularised from that date, but only directed that the post be created in the future and the petitioner be

appointed in the said post. It is, therefore, submitted that no case has been made out for pension. 4. Considering that this was a hard case we tried to find out as to whether from the record whether it is possible to grant any relief to the petitioner. In so far as the judgment of this Court is concerned, it is clear that this Court only directed that the post be created in the future and the petitioner be appointed against the said post. When the petitioner was earlier appointed that was as a daily wage earner and there was no permanent post. Rule 30 contemplates that the petitioner must be appointed to a post and that post should be a permanent or temporary post, but it ought to be a post. In the instant case there was no such post. Once that be the case the appointment of the petitioner earlier on daily wages cannot be said to be appointed to a post in the service. Consequently, Rule 30 will not be applicable.

5. For the aforesaid reasons we find no case for interference. Petition rejected.

(**F.I. REBELLO, J.**)

(MRS.R.S. DALVI, J.)